IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION NO : 259 of 2005**

Between:

C. Venkata Rao, S/o Late Sri C. Kameswara Rao, Hindu,
R/o 45-58-5/15, Narasimha Nagar, Visakhapatnam - 24.

**..... PETITIONER**

AND

1 The Assistant Divisional Engineer,

Construction and Operation,
Andhra Pradesh Eastern Power Distribution Company,

Dondaparthy, Visakhapatnam -4.
2 The Director, A.P. Tourism Development Corporation

Secretariat Road, Tank Bund, Hyderabad.
3 Additional Chief, (PMU) Youth Advancement,

Tourism and Culture (PMU) Department, Hyderabad.
4 Superintending Engineer, Assessments, APEPDC Ltd,.

Opp: Hotel Green Park, Ganjipeta, Visakhapatnam.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order more especially one in the nature of writ of Mandamus declaring the action of the 1st respondent in issuing the proceedings No. DE/A/VSP/Doc.No. VSPI/2371/FO/1034/D No. 1073 dated 1-12-2004 in the form of final order for quantum of assessment as illegal, arbitrary capricious and opposed to the proceedings issued by the respondents 2 and 3 and consequentially declare the imposition of penalty under the guise of 'mis-use' as illegal arbitrary and consequentially suspend the order no. DE/A/VSP/Doc.No. VSP1/2371/FO/1034/D No. 1073 dated 1-12-2004 of Divisional Engineer, Assessment Division APEPD C

Ltd, (1st Respondent) pending writ petition.

**Counsel for the Petitioner: MR.RAVI SHANKAR JANDHYALA**

**Counsel for the Respondents 1 TO 4: MR M.SUBBA RAO**

**The Court, at the stage of admission, made the following:**

**ORDER:**

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Petitioner feels aggrieved by an order of final assessment, dated 01.12.2004, passed by the 1st respondent. Petitioner states that he has been providing paying guest accommodation, in terms of a scheme framed by the departments of Tourism and Youth Affairs. Petitioner states that there was a clear representation from the Government authorities to the effect that the power supply, for such premises, shall be treated as the one for 'domestic category', and despite the same, the 1st respondent has treated the supply as the one under 'commercial category'.

Learned counsel for the petitioner makes a reference to the communication dated 22.10.2002, issued by the department of Youth Advancement, Tourism and Culture and submits that there is no justification for the 1st respondent in treating the power supply under 'commercial category'.

Learned Standing Counsel, on the other hand, submits that the categorization of power supply depends on the nature of use, and as on today, there is no specific order from any competent authority directing that the power supply to the persons providing paying guest accommodation shall be treated as domestic.

Petitioner was initially issued an order of provisional assessment directing that he is liable to pay a sum of Rs.41,451/- towards back billing. It was stated that the petitioner, who was initially extended the power supply under 'domestic category' had established a paying guest accommodation, and thereby the categorization deserves to be changed to the 'commercial'. Petitioner had raised several contentions both before the 1st respondent as well as this Court. The necessity to go into those submissions in detail is obviated for the reason that a statutory appeal is provided against the order of final assessment. Petitioner can put forward his contentions effectively and the appellate authority will be in a better position to

examine the records as well as the subject matter and record a clear finding.

Petitioner had already deposited a sum of Rs.20,726/- after receiving the order of provisional assessment, for the purpose of continuing the power supply. In that view of the matter, he does not have to deposit any further amounts.

Therefore, the writ petition is disposed of leaving it open to the petitioner to prefer an appeal before the appellate authority. In case, such an appeal is preferred within four weeks from today, it shall be treated, as having been presented within the period of limitation, and the petitioner shall not be insisted to pay any amount covered by the order of final assessment. It shall be open to the petitioner to put forward all contentions touching on the questions of law and fact. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 19-01-2005

**Note**: Furnish a copy

by 24.01.2005

(B/o.)

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To

1 The Assistant Divisional Engineer,

Construction and Operation,
Andhra Pradesh Eastern Power Distribution Company,

Dondaparthy, Visakhapatnam -4.
2 The Director, A.P. Tourism Development Corporation

Secretariat Road, Tank Bund, Hyderabad.
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